

APPENDIX

Grounds for the decision (Annex)

Date 28.08.2007

Application no.: 01 115 047.1

I Facts of the case and requests

1. Upon the patent application number 01115047.1 filed with the European Patent Office on 21.06.2001, on 24.03.2004 European patent number 1 168 285 with the title "Mirror having a region designed as an information transmitter" was granted. The priorities of patent applications DE 10030960 of 24.06.2000 and DE 10104644 of 02.02.2001 are claimed. The patentee is Oliver Röttcher, Gottmadingen (DE).
2. The firm Koninklijke Philips Electronics N.V., Eindhoven (NL) lodged opposition to the granted patent by the statement received by fax on 20.12.2004, and moved that the patent be withdrawn in full. In an ancillary capacity it moved that a date be appointed for a hearing in the event that the Opposition Department would not withdraw the patent.

The opponent based its opposition on the grounds according to article 100a) EPC due to lack of novelty and lack of inventive step, as well as on the grounds of opposition that it cannot be carried out according to article 100b) EPC.

It named the following documents:

D1: US-A-5 642 238

D2: Patent Abstracts of Japan 08-173 285

D3: Patent Abstracts of Japan 08-308 700

D4: EP-A-0 937 601

D5: US-A-5 148 283

D6: US-A-5 956 181

D7: US-Des. 299 491

D8: EP-A-0 552 768

D9: US-A-4 517 040

D10: US-A-4 202 607

D11: WO-A-95/23401

D12: FR-A-2 738 931

D13: GB-A-2 274 733

D14: US-A-4 747 223

D15: US-A-5 993 006

D16: FR-A-2 586 182

D17: <http://lasvegasnewspapers.com/realestate/REMay-21-Sun-2000>

"Lake Las Vegas homeowners show creativity", pages 1, 2

D18: US-A-6 152 551.

3. On 28.7.2005 the patentee filed by fax a new set of claims 1-11 according to the main request, as well as a new set of claims 1-9 according to the ancillary request, and refuted the grounds of opposition in the accompanying letter. He requested that the patent be upheld in amended form. A hearing was requested in an ancillary capacity.
4. The opponent upheld in its letter, received on 07.09.2005 by fax, its objections due to lack of novelty to the respective main claims of the amended sets of claims. Furthermore, it considered that the amendments were a violation of the requirement of clarity (Art. 84) and pointed out that, by amending the main claims, a new, previously unnamed object is introduced, which would in its opinion constitute a violation of Art. 123(2)(3). It also enclosed copies of two photos which were described as a further citation.
5. In a letter received on 20.03.2006 by fax, the patentee refuted the opponent's previous arguments.
6. By fax of 01.09.2006, the patentee requested that the opposition proceedings be handled faster.
7. The Opposition Department in a letter of 20.02.2007 gave an invitation to a hearing which was to take place on 29.06.07. At the request of the patentee by fax on 23.02.07, the date was postponed to 07.08.2007.
8. The opponent gave notice by fax, received on 25.07.2007, that the opposition to the patent was being withdrawn.
9. On the patentee's initiative, the amended patent claims were discussed in a telephone conversation on 30.07.2007. Subsequently the patentee filed a new set of patent claims 1 to 9 and requested that the patent be upheld in amended form and the date for the hearing cancelled.
In an ancillary capacity the patentee requested that the date for the hearing be postponed.
10. In a telephone conversation on 31.07.07, the Examiner in charge informed the patentee's representative that the Opposition Department had the intention of upholding the patent according to the patentee's request of 30.07.07, but the description must still be adapted to the amended patent claims. The patentee's representative consented to the proposed changes to the description.

II Grounds for the decision

1. The characteristics inserted in claim 1 according to the main request are taken from the dependent claims 6, 7 and 9 as well as from the description column 2, line 57 to column 3, line 3, as well as column 3, lines 38 to 51 and column 4, lines

12 to 17, in the granted version, which in turn have a corresponding literal basis in the originally filed version of the patent application. The dependent claims 2 to 9 are based on claims 2 to 5 and 9 to 12 in the granted version, which in turn have a literal basis in the originally filed dependent claims.

Therefore the requirements of Art. 123 (2)(3) are met.

2. D3 (JP-A-08-308 700) is regarded as the closest state of the art. It discloses a mirror on the rear side of which is installed, in a partly transparent region, a TV set which shows pictures taken by a video camera.
The subject of claim 1 differs from the known mirror in that a flat frame is provided, the mirror surface being part of a mirror insert which is fixed to the frame to form a closed interior of the mirror, or the mirror surface is part of a mirror attachment which is mounted on the frame to form a closed interior of the mirror.

The effect associated with the above-mentioned characteristics is that a flat, closed interior of the mirror is made possible, which can receive the flat screen or display. The object of the invention consequently lies in providing an arrangement which is space-saving and at the same time easy to protect against unauthorised access.

The characteristics of a flat frame structure, which with a mirror insert or mirror attachment forms a closed interior of the mirror, are of course known in the art from documents D13 or D14. There, however, it is not a flat screen or electronic colour display that is used, but only two-dimensional images or three-dimensional objects.

None of the documents cited makes reference to mirrors with a flat screen or to an electronic colour display which is fixed to a flat frame structure.

3. As the opponent is no longer involved in the opposition proceedings, there are no opponent's objections to the new set of claims.
The grounds of opposition stated by the opponent and other objections relate to the clarity and admissibility of changes on which the Opposition Department had already commented in its invitation to the hearing.
- 3.1 The opponent's references to an allegedly newly introduced object, made in its last submission, referred only to the patentee's arguments in its accompanying letter for filing the amended sets of claims, not to new objects actually introduced into the description or new advantages, i.e. not to amendments of the patent.
- 3.2 The opponent had further argued that introducing the characteristics of the "flat frame structure" would lead to a lack of clarity of claim 1. The Opposition Department was unable to agree with this argument, because in the field of mirrors concerned, in particular wall mirrors, the relative term "flat" is common.

- 3.3 The photos, which were filed late by the opponent with the letter of 07.09.2005, were not introduced into the proceedings because they relate only to ordinary mirrors which are mounted on windows and therefore obviously do not constitute state of the art which suggests itself.
- 3.4 The grounds of opposition contained in the opposition statement, that it lacks disclosure, concerned only claim 2. The opponent thought that the alternative mentioned in claim 2 - that the flat screen or display with the moving image is a hologram - was not disclosed in relation to the object of the invention, which is to be able to change the information displayed quickly.

However, these grounds of opposition are only an allegation which was not corroborated by any factual arguments or evidence and therefore was not further pursued by the Opposition Department.

4. For the reasons stated above, the Opposition Department came to the conclusion that the patent with the amendments made in the opposition proceedings meets the requirements of the EPC (Art. 102(3) EPC).